Electromagnetic compatibility. Recast. 'Goods package'

2011/0351(COD) - 28/11/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Zuzana ROITHOVÁ (EPP, CZ) on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (recast).

The committee recommends that the European Parliament's position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Scope: the Directive shall not apply to equipment specifically designed solely for the purposes of research and development and only made available on a business-to-business basis.

Definitions: an amendment seeks to go back to the original definition, where **unwanted signals** are explicitly not defined as disturbance, these being an instance of electromagnetic incompatibility which should not even arise.

Consumer protection: Members consider that all obligations imposed on economic operators by this Directive should also apply in the case of **distance selling**.

Manufacturers shall indicate, on the **apparatus, their name, registered trade name or registered trade mark and the postal, or, if available, the website address** at which they can be contacted. Where that is not reasonably possible, those details shall be provided on the packaging or in a document accompanying the apparatus. The contact details shall be in a **language easily understood by end-users and by market surveillance authorities**. Such instructions and safety information as well as any labelling shall be **clear, understandable and intelligible**.

Products in stock: Members consider it necessary to provide for transitional arrangements that allow economic operators a **reasonable period of time** to make available on the market and put into service apparatus that has already been placed on the market in accordance with Directive 2004/108/EC. Economic operators should be able to sell stocks of apparatus that are already in the distribution chain on the date of application of national measures transposing this Directive. Member States shall ensure that the obligations of economic operators concerning the products in stock are applied.

Declaration of conformity (DoC): upon the request of the market surveillance authorities, the economic operator shall provide a **copy of the EU declaration of conformity in paper form or by electronic means**. It is proposed to add an **exception to the rule on 'one single DoC'** for cases where the providing a single document creates specific problems due to its complexity or extent. It should be possible to replace that single EU declaration by individual EU declarations of conformity relevant for the particular apparatus.

Notifying bodies: Member States shall designate a **single notifying authority** that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies.

Market surveillance: Members suggest that **Member States shall, on an annual basis, provide the Commission with details** of the activities of their market surveillance authorities and of any plans for and increase of market surveillance, including the allocation of more resources, the increase of efficiency and

the building of the necessary capacity for achieving those goals. Member States shall provide **adequate funding** to their market surveillance authorities.

Member States shall ensure that appropriate restrictive measures are taken in respect of the apparatus concerned, such as **withdrawal of the apparatus** from their market, without delay.

Penalties: Members propose that the Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of **improper use of the marking**. Rules on penalties applicable to infringements by economic operators of the national provisions may include criminal **penalties for serious infringements**. The penalties shall be **proportionate to the seriousness of the offence**.

Non-retroactive nature of EU legislation: Members propose that apparatus which was lawfully placed on the market before may be made available on the market by distributors without further product requirements.

Transposition: Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall make those texts publicly available by publishing them on the internet.